



Expires – Upon Issuance of LPP 18-01

Federal Highway Administration (FHWA) Approval of Architectural and Engineering (A&E) Consultants in a Management Support Role

I. BACKGROUND

The most recent version of the [Stewardship and Oversight Agreement](#) between FHWA and the California Department of Transportation (Caltrans) signed on May 28, 2015, addresses the approval action maintained by FHWA in the area of administering A&E contracts (23 CFR 172.7 (b)(5)).

II. POLICY

23 CFR 172.7:

Consultant services in management support roles.

- (i) When Federal Aid Highway Program (FAHP) funds participate in a consultant services contract, the contracting agency shall receive approval from FHWA, or the recipient as appropriate, before utilizing a consultant to act in a management support role for the contracting agency; unless an alternate approval procedure has been approved. Use of consultants in management support roles does not relieve the contracting agency of responsibilities associated with the use of FAHP funds, as specified in 23 U.S.C. 302(a) and 23 U.S.C. 106(g)(4) and should be limited to large projects or circumstances where unusual cost or time constraints exist, unique technical or managerial expertise is required, and/or an increase in contracting agency staff is not a viable option.
- (ii) Management support roles may include, but are not limited to, providing oversight of an element of a highway program, function, or service on behalf of the contracting agency or may involve managing or providing oversight of a project, series of projects, or the work of other consultants and contractors on behalf of the contracting agency. Contracting agency written policies and procedures as specified in § 172.5(c) may further define allowable management roles and services a consultant may provide, specific approval responsibilities, and associated controls necessary to ensure compliance with Federal requirements.
- (iii) Use of consultants or sub-consultants in management support roles requires appropriate conflicts of interest standards as specified in paragraph (b)(4) of this section and adequate contracting agency staffing to administer and monitor the management consultant contract, as specified in § 172.9(d). A consultant serving in a management support role may be precluded from providing additional services on projects, activities, or contracts under its oversight due to potential conflicts of interest.
- (iv) FAHP funds shall not participate in the costs of a consultant serving in a management support role where the consultant was not procured in accordance with Federal and State requirements, as specified in 23 CFR 1.9(a).
- (v) Where benefiting more than a single Federal-aid project, allocability of consultant contract costs for services related to a management support role shall be distributed consistent with the cost principles applicable to the contracting agency, as specified in 2 CFR part 200, subpart E—Cost Principles.

Consultant in management support role means:

- A City Engineer (or equivalent) who manages the engineering unit for the city, providing oversight of a project, series of projects, managing or directing work of other consultants or contractors on behalf of the City, selecting other consultants, approving changes to schedule, scope, deliverables or costs, and approving invoices.
- A County Engineer (or equivalent) who manages the engineering unit for the county such as duties described above.
- A Project Manager (or equivalent) who manages and oversees a project, series of projects or the work of other consultants and contractors on behalf of the public agency.
- A Program Manager (or equivalent) who manages and oversees an element of a highway program, function, or service on behalf of the public agency.

Consultant in management role does not mean:

- A consultant engineer performing project-specific design, and/or construction contract administration and construction engineering for the public agency.
- A consultant “project manager” performing contract management on behalf of the consultant on the public agency’s consultant contract.
- A consultant providing support to administrative duties such as federal authorization process, labor compliance activities, and other management and administrative tasks.

III. PROCEDURE

Upon the effective date of this Office Bulletin, all Local Public Agencies that solicit to hire A&E consultant(s) in a management support role must obtain FHWA approval prior to contract execution. As noted in the [Stewardship and Oversight Agreement](#), the delegation of the approval of A&E consultants to act in a management support role is not allowed.

In order for a contract for a consultant in a management support role to be federally eligible, the following is required:

- Local agency sends in a request for approval (Scope of Work and Conflict of Interest Policy) to DLA-HQ (aeoversight@dot.ca.gov).
- Upon receipt, DLA-HQ shall review the request and forward it for approval to FHWA and cc DLAE.
- DLA-HQ sends FHWA’s written response to the local agency and cc DLAE.
- Local agency undergoes consultant selection process and selects consultant.
- Local agency shall submit the completed Exhibit 10-U to DLA-HQ (aeoversight@dot.ca.gov). DLA-HQ shall review and forward Exhibit 10-U to FHWA for approval.
- DLA-HQ sends signed Exhibit 10-U (approved by FHWA) to the local agency and cc DLAE.

Please see attached flow chart for overall process.

Existing consultant in a management support role contracts in effect prior to the issuance of this Office Bulletin are exempt. However, any amendments to existing contracts shall require FHWA approval in order to be considered federally eligible.



All new contracts are limited to a duration of three (3) years with the possibility for a two (2) year extension.

IV. APPLICABILITY/IMPACTS

All Federal-aid contracts for a consultant in a management support role must be approved by FHWA **prior to contract execution**. Failure to obtain proper FHWA approval may result in federal ineligibility of the contract.

Recommended:	Original Signature By	07/19/2017
	Sukhdeep Nagra, A&E Oversight Engineer Division of Local Assistance	Date

Approved:	Original Signature By	07/19/2017
	Erwin Gojuangco, Acting Office Chief Office of Policy Development and Quality Assurance	Date

Attachments:

Attachment 1 – May 15, 2017 FHWA California Division letter: “FHWA Approval of Architectural and Engineering (A/E) Consultants in a Management Support Role”

Attachment 2 – 2017 Consultant in a Management Support Role Procurement Process

Attachment 3 – LAPM Exhibit 10-U Consultant in Management Support Role Conflict of Interest and Confidentiality Statement (Revised)